IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

Crl.MC.No. 3150 of 2007()

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CC.36/2006 of JUDL. MAGISTRATE OF FIRST CLASS-II(MOBILE), KOTTAYAM

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PETITIONER:

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SAROJINI VISWANATHAN, PUTHANPURAKKAL HOUSE,
KADVANIKKAD, KOTTAYAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS:

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THE STATE OF KERALA REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.
KOCHI - 31

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 15/10/2007 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J**

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**Crl.M.C.No.3150 of 2007**

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**Dated this the 15th day of October, 2007**

**O R D E R**

The petitioner, a woman aged about 70 years, faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. The petitioner had appeared before the learned Magistrate earlier. She was enlarged on bail. But when the case was posted for 313 examination on 25.07.07, she could not appear before the learned Magistrate. She was laid up. The learned Magistrate has issued coercive processes against the petitioner. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Her absence was not wilful or deliberate. She was ill and that is why she could not appear earlier. She is willing to surrender before the learned Magistrate and seek regular bail now. But she apprehends that her application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which she could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

5. Considering the age of the petitioner and the fact that the petitioner is a woman, I direct that the warrant of arrest issued against the petitioner shall not be executed till 22.10.07. On or before that date, the petitioner shall surrender and seek regular bail.

**(R.BASANT, JUDGE)**

rtr/-